IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Aoki et al.	Examiner: Ly, Cheyene D
Serial No.: 10/040,210	Group Art Unit: 1631
Filed: 01/02/2002	Our Ref: BDI001

For: "Apparatus, Method, and Computer Program Product For Plotting Proteomic and Genomic Data"

RE: **RESPONSE**

Hon. Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

RESPONSE

Sir:

In response to the Office Action dated June 30, 2003, having a shortened-statutory response period extending through and including July 30, 2003. The Applicants respectfully request that the Examiner enter and consider the Remarks made below. **All remarks herein are made without prejudice.**

DETAILED ACTION

Election/Restrictions

Turning now to the Office Action, the Examiner required a restriction to one of the following inventions under 35 U.S.C. 121:

I. Claims 1-39, 79-118, and 120, drawn to an apparatus for plotting proteomic and genomic data, classified in class 702, subclass 19 and 27.

II. Claims 40-78 and 119, drawn to a method for plotting proteomic and genomic data, classified in class 702, subclasses 19 and 27.

The Examiner stated that the inventions in Group I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP §806.05(h)). In the instant application, the apparatus of Group I may be utilized in the distinct usages as needed in Group II, a method plotting proteomic and genomic data, or alternatively, as an apparatus for high-throughput data analysis and screening. All of these usages are distinct as requiring distinct and different functions and results thereof without overlapping search due to different subject matter. This lack of overlapping searches documents the undue search burden if they were searched together.

The Examiner further contended that because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.